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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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|-----------------|-------------|----------------------|---------------------|

09/609,868      07/03/00      WALKER      K      W2450002

000720      QM32/0606  
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AIR MAIL

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| EXAMINER |
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BOGART, M

|          |              |
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| ART UNIT | PAPER NUMBER |
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3761

DATE MAILED: 06/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/609,868

Applicant(s)

WALKER, KENNETH GORDON

Examiner

Michael Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 14-21, 24-27, 30, 32, 34, 35, 37 and 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 22, 23, and 28 is/are allowed.
- 6) ☒ Claim(s) 29, 31, 33 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

No reference is made to U.S. application No. 09/062,551 in the specification. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1.78).

Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Canada on April 1995. It is noted, however, that applicant has not filed a certified copy of the Canadian applications as required by 35 U.S.C. 119(b).

### ***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, 22, 23, 28, 29, 31, 33 and 36, drawn to a system;
- II. Claims 25-27, drawn to a servicing unit;
- III. Claims 34 and 35, drawn to a check valve.

During a telephone conversation with David McGruder on May 22, 2001 a provisional election was made with traverse to prosecute the invention of the servicing unit, claims 1-24, 28-33 and 36-38. Affirmation of this election must be made by applicant in replying to this Office Action. Claims 25-27, 34 and 35 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Claims 1-13, 22, 23, 28, 29, 31, 33 and 36, directed to Figure 1, claiming a single inlet port;

Claims 14-21, 24, 30, 32, 37 and 38, directed to Figure 3, claiming two inlet ports.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with David McGruder on May 31, 2001 a provisional election was made with traverse to prosecute the invention of Figure 1, claims 1-13, 22, 23, 28, 29, 31, 33 and 36. Affirmation of this election must be made by applicant in replying to this Office Action. Claims 14-21, 24, 30, 32, 37 and 38 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 10, line 22, and 11, line 13, applicant uses two different reference numbers to describe an outlet port, although applicant appears to intend to describe one outlet port and two inlet ports.

Appropriate correction is required.

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 31, 33 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Fraker (U.S. Pat. No. 5,797,742).

As to claims 29 and 36, Fraker teaches a lid (6) covering a canister body (4) together forming a canister (2) for receiving fluids, said canister body (4) having side walls (8) and a bottom (10), said lid (6) comprising:

An inlet port (16) in said lid (6) for inflow of fluids into said canister (2);

An outlet port (82) in said lid (6) for outflow of fluids from said canister (2);

A conduit (86) in fluid communication with said outlet port (82), said conduit (86) extending to said bottom (10) of said canister body (4) when said lid (6) is placed in covering relation to said canister body (4).

As to claim 31, Fraker teaches a vacuum port (84) in said lid (6).

As to claim 33, Fraker teaches a check valve (102).

#### ***Allowable Subject Matter***

Claims 1-13, 22, 23 and 28 are allowed.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached at telephone number (703) 308-2702. The fax phone

Art Unit: 3761

numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.



Michael Bogart  
June 2, 2001



John G. Weiss  
Supervisory Patent Examiner  
Group 3700